

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE

PENDING CHARGE: On October 29, 2008, the Grand Jury returned a thirty-four count indictment against defendants Angela R. Clark, Jerome Shade Howard, Ronald E. Brown, Jr., Stefan M. Guerra, Cynthia D. Jordan, James F. Simpson, Steven M. Salas, Michael Conrad Smith, Anahit Nshanian, Cheryl Ann Romero, Mark Whitney Jackson, Enrico J. McClain, Daryle A. Edwards, Gerald D. Williams, Judith E. Williams, Leon T. Jones, and Willie Charles Cadenhead.¹ Count One of the indictment charges that beginning on or about February 2005, and continuing through on or about May 21, 2007, all of the indicted defendants conspired to obtain money from mortgage lenders and title companies, and to retain the money obtained, by means of false and fraudulent pretenses, representations and promises, and that in the execution of the scheme defendants transported in interstate commerce money taken by fraud and caused to be transmitted in interstate commerce wire communications by fax and electronic mail. The remaining counts charge various defendants with interstate transportation of money obtained by fraud, wire fraud, and engaging in monetary transactions in property derived from specified unlawful activity.

The following matters were discussed and action taken during the pretrial conferences:

TRIAL COUNSEL:

Government: Linda Marshall, Kathleen Mahoney and paralegal Elsie Robinson
Case Agent: Special Agents Julia Jenson of the FBI and Adam Jobes of the IRS
Defense: Pat McInerney and Steven Aaron for defendant Angela Clark
Charles Eblen for defendant Cynthia Jordan

¹Defendants Howard, Brown, Guerra, Simpson, Salas, Smith, Romero, Edwards, Gerald Williams, Judith Williams, Jones and Cadenhead have all entered guilty pleas. Defendant Jackson has a change of plea set for May 18, 2010.

Gregory Emerson and James Brown for defendant Anahit Nshanian
Angela Hasty for defendant Enrico McClain

OUTSTANDING MOTIONS: At the time of the pretrial conference there were no pending motions. Since the pretrial conference the following motions have been filed:

Government motions:

- (1) Motion to Amend the Indictment by Interlineation to Correct Clerical Errors (doc. # 323);
- (2) Motion in Limine Regarding Personal Information of Defendant Jerome Howard and Non-parties (doc. # 335);
- (3) Motion in Limine Regarding Advice of Counsel (doc. # 336);
- (4) Motion in Limine Regarding Impeachment of Witnesses (doc. # 337).

Defense motions:

- (5) Defendant's [McClain] Response to the Government's Notice of Its Intent to Offer Evidence of Other Crimes and Motion in Limine to Exclude Such Evidence (doc. # 333);
- (6) Defendant Cynthia Jordan's Motion in Limine to Preclude the Testimony of Expert Witness Sandra G. Thomas (doc. # 338);
- (7) Defendant Angela R. Clark's Motions in Limine (doc. # 341);
- (8) Defendant's [Jackson] Motion in Limine (doc. # 345)(adopts portions of defendant Clark's motions in limine)
- (9) Defendant Cynthia Jordan's Motion in Limine to Preclude the Testimony of Government Expert Witnesses Regarding Whether Defendant Had the Requisite Mental State for the Crimes Charged (doc. # 346);
- (10) Defendant's [McClain] Motion in Limine To Exclude Evidence (doc. # 348)(adopting the motion in limine of co-defendant Clark)

TRIAL WITNESSES:

Government: 32 with stipulations

Defendants: 8 witnesses, including defendant Clark

6 witnesses, including defendant Jordan

4 witnesses, including defendant Nshanian

5 witnesses, including defendant McClain

Expert Witnesses: Government counsel plans on calling two experts in the areas of real estate and lending decisions. Defendant Jordan may call an expert on underwriting and the mortgage brokerage business.

TRIAL EXHIBITS

Government: 2200 exhibits (grouped by topic)

Defendants: 150 exhibits for defendant Clark

150 exhibits for defendant Jordan

50 exhibits for defendant Nshanian

0 exhibits for defendant McClain

DEFENSES: General denial

POSSIBLE DISPOSITION:

(X) Definitely for trial; () Possibly for trial; () Likely a plea will be worked out

TRIAL TIME: 9-10 days

Government's case including jury selection: 5 days

Defense case: 4 days for all defendants

Please Note: Government counsel believes the case can be tried in two weeks. Counsel for defendant Clark believes there is a chance the trial will spill over into a third week.

STIPULATIONS: The parties have agreed to stipulations concerning chain of custody; some business records; the materiality of certain representations; the fact of interstate commerce; the transfer of funds for purchases of certain properties; email addresses and fax numbers; and the loan amounts actually funded.

UNUSUAL QUESTIONS OF LAW: None

FILING DEADLINES:**Witness and Exhibit List**

Government: Friday before the pretrial conference

Defense: Friday before the pretrial conference

Counsel are requested to list witnesses in alphabetical order on their witness list.

Exhibit Index, Voir Dire, Jury Instructions: Noon, Wednesday, May 19, 2010

Please Note: Jury instructions must comply with Local Rule 51.1

Motions in Limine: All motions in limine must be filed on or before April 26, 2010. Any suggestions in opposition must be filed on or before May 7, 2010.

TRIAL SETTING: The case is specially set to commence on May 24, 2010

Please note: The parties request a larger pool of jurors, at least 75 potential jurors.

IT IS SO ORDERED.

/s/ Sarah W. Hays

SARAH W. HAYS

UNITED STATES MAGISTRATE JUDGE